

David C. Wakefield, Esq. Bar #: 185736
Lightning Law, APC
10620 Treena Street, Suite 230
San Diego, CA 92131
Telephone: 619.485.4300; Facsimile: 619.342.7755
E-mail: dcw@DMWakeLaw.com; wakefieldlawassistant@gmail.com

Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**UNITED AFRICAN-ASIAN
ABILITIES CLUB, ON BEHALF
OF ITSELF AND ITS
MEMBERS; JESSIE JAMES
DAVIS IV, An Individual**

Plaintiffs.

v.

**NMS NORTHRIDGE, LLC; AND
DOES 1 THROUGH 10, Inclusive**

Defendants

Case No:

COMPLAINT

DISCRIMINATORY **PRACTICES**

[US Fair Housing Act of 1988 [42 U.S.C. §§ 3600 et seq., §3604(c), §3604(f)(1-3), et seq.; CA Government Code 12925, 12927, 12955; CA Civil Code §§ 51, 52, 54.3

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiffs make the following allegations in this civil rights action:

JURISDICTION AND VENUE

2. The federal jurisdiction of this action is based on the 42 U.S.C. §§ 3601, 3604 et. seq. - the U.S. Fair Housing Act Amendments of 1988 (Defendants' apartment property consist of four (4) or more residential units), and 42 U.S.C. § 12101 et. seq., the federal Americans With Disabilities Act. Venue is proper in this United States District Court for the Central District of California pursuant to 28

1 U.S.C. § 1391(b), because a substantial part of Plaintiffs' claims arose within said
2 Judicial District.

3 **SUPPLEMENTAL JURISDICTION**

4 3. This United States District Court for the Central District of California has
5 supplemental jurisdiction over the California state claims as alleged in this
6 Complaint pursuant to 28 U.S.C. § 1337(a).

7 **NAMED DEFENDANTS AND NAMED PLAINTIFFS**

8 4. The term Plaintiffs as used herein specifically include the corporate Plaintiff
9 entity known as the United African-Asian Abilities Club, On Behalf Of Itself And Its
10 Members (hereinafter referred to as "Club" or "UAAAC"); and the individual
11 Plaintiff Jessie James Davis IV (hereinafter referred to as "Davis" or the "named
12 Individual Plaintiff". The Plaintiff Club and Plaintiff Davis are sometimes
13 collectively referred to as the "named Plaintiffs" or "Plaintiffs".

14 5. Plaintiff United African-Asian Abilities Club (UAAAC) is registered and in
15 good standing as a Nevada corporation. The named individual Plaintiff Davis is a
16 member of the Plaintiff Club organization.

17 6. Plaintiffs are informed, believe, and thereon allege that named Defendant NMS
18 NORTHRIDGE, LLC is the operator of the apartment rental business known as The
19 Heights on Superior Apartments located at 9710 Zelzah Avenue Northridge, CA
20 91325. Plaintiffs are informed, believe, and thereon allege that Defendant NMS
21 NORTHRIDGE, LLC is the owner, operator, and/or lessor of the real property
22 located at 9710 Zelzah Avenue Northridge, CA 91325 (hereinafter referred to as the
23 "Property").

24 7. Defendant NMS NORTHRIDGE, LLC is, and at all times mentioned herein
25 were, a business or corporation or franchise, organized and existing and/or doing
26 business under the laws of the State of California. Defendants Does 1 through 10,
27

were at all times relevant herein subsidiaries, employers, employees, and/or agents of the named Defendants.

CONCISE SET OF FACTS

8. The named Individual Plaintiff Davis has cerebral palsy, uses a wheelchair for mobility, and is unable to walk any distance. Plaintiff Davis also has limited mobility in his hands and upper body. Plaintiff Davis is also a member of the Plaintiff Club. The individual Plaintiff Davis had specific dates wherein he intended to go to the Defendant's Property to access Defendants' rental services. Plaintiff Davis has actual knowledge of the overt and obvious physical and communication barriers at Defendants' Property. Plaintiff Davis determined that the open and obvious physical barriers that exist at Defendants' Property directly related to his disabilities, and that it would be impossible or extremely difficult for him to physically access Defendants' on-site rental services. Plaintiff Davis had knowledge and determined that it would be futile gesture for him to go to the Property on the date that he had intended. The named Individual Plaintiff Davis was deterred by his actual knowledge of the physical and communication barriers that exist at Defendants' Property and website. See ¶¶ 25.

9. The named Individual Plaintiff attempted to use Defendants' website to access Defendants' online rental services, but had great difficulty due to his disabilities. The named Individual Plaintiff also could not determine from Defendants' website content whether Defendants' office on or off the property and common areas were physically accessible to him. The named Individual Plaintiff requested that Plaintiff Club assist him to obtain information regarding the physical accessibility of Defendants' on-site office where Defendants' offer its rental services. In response to the named Individual Plaintiff's request, Plaintiff Club sent one of its members to Defendants' physical on-site office. The named Individual Plaintiff personally

1 reviewed all the information and photographs of Defendants' property. As a result,
2 the named Individual Plaintiff has actual knowledge of the overt and obvious
3 physical and communication barriers at Defendants' Property. The named Individual
4 Plaintiff determined that the open and obvious physical barriers that exist at
5 Defendants' Property directly related to his disabilities, and that it would be
6 impossible or extremely difficult for him to physically access Defendants' on-site
7 rental services. See ¶¶ 25. The named Individual Plaintiff had actual knowledge and
8 determined that it would be futile gesture for him to go to the Property on the date
9 that he had intended. The named Individual Plaintiff was deterred by his actual
10 knowledge of the physical and communication barriers that exist at Defendants'
11 Property and website. The named Individual Plaintiff made a written request to
12 Defendants' for an accommodation to have equal access to Defendants' rental
13 services and to eliminate the communication and physical barriers to Defendants'
14 rental services, both online and at the property. At the end of this action, the named
15 Individual Plaintiff intends to return to Defendants' website and physical office on or
16 off the site location to obtain rental information and verify that the communication
17 and physical barriers to Defendants' rental services are removed.

18 10. The named Plaintiff Club is an organization that advocates on the behalf of its
19 members with disabilities when their civil rights and liberties have been violated.
20 Plaintiff Club investigated Defendants' websites and apartment Property in March,
21 2022, and in May, 2022. Plaintiff Club member Sharon Riguer investigated the
22 Property on the Internet websites. Plaintiffs also investigated the property. The
23 results of the research from Club Member Sharon Riguer are contained in the Exhibit
24 B to this Complaint. Club members ascertained that Defendants' rental services at
25 Defendants Property were not physically accessible to Davis by a Club member who

1 went to Defendants' apartment Property, and said Club member attempted to access
2 Defendants' on-site rental services.

3 11. Plaintiff Club diverted its time and resources from its normal purposes
4 because of Defendants' service, policy, program and physical barriers to Defendants
5 rental services at Defendants' websites and Property. Club personnel conducted
6 detailed Internet searches to determine if Defendants provide large print, deaf
7 interpreter, therapy animal, the required reasonable accommodation policy, and
8 required reasonable modification policy. Further, the Club retained contractors to
9 investigate said policies, to survey the property, to photograph the property, to
10 investigate when the Property was constructed, to investigate the Property ownership
11 and to have an access report prepared. Plaintiff Club also diverted staff to
12 investigate Defendants' Internet presence to determine compliance with the FHA and
13 ADA. Plaintiff Club also investigated Defendants' written rental materials such as
14 brochures, rental applications and leases. Moreover, Plaintiff Club made an oral
15 investigation to ascertain Defendants' companion animal, deaf interpreter and
16 reasonable accommodation and reasonable modification policies. Plaintiff Club also
17 caused a physical access consultant to be retained to survey Defendants' facility.
18 Plaintiff Club's findings regarding Defendants' rental services and facilities were
19 incorporated into an Access Report. The Access Report also details the known overt
20 and obvious physical access violations at the Property, but it is not intended as an
21 exhaustive list of existing violations. Due to these necessary activities to investigate,
22 Plaintiff Club's time and resources were diverted from its normal activity. Plaintiff
23 Club suffered injury and also suffered monetary damages due to the diversion of the
24 Club's resources from its normal purposes.

25 12. Plaintiffs allege that Defendants control, operate, and maintain a website at
26 <https://www.theheightsonsuperior.com/> where Defendants offer its rental services.
27

1 Additionally, Defendants have a physical office location at the Property where they
2 also offer their rental services.

3 13. Plaintiffs allege that Defendants' websites have a close nexus to Defendants'
4 physical site rental services because the websites refer to Defendants' rental services
5 that are offered at Defendants' actual physical office on or off the site. Therefore,
6 Plaintiffs allege that the websites are also places of public accommodation.

7 Defendants control the websites to the extent that Defendants can change the website
8 content to make modifications to comply with the FHA and ADA. Therefore,
9 Plaintiffs allege that Defendants can modify the content of Defendants' websites to
10 improve access for Plaintiffs and people with disabilities.

11 14. In this case, the named Plaintiffs allege that the Defendants failed to provide a
12 TTY number or the text messaging system for Plaintiffs and other people that are
13 deaf or people with speech conditions. Plaintiff Club members have a speech
14 disability. Moreover, Plaintiff Club alleges that the Defendants did not modify their
15 websites to eliminate non-readable text to allow the blind and people with low vision
16 to use the screen reader software to access the information on the website, yet they
17 also failed to use large print on their websites. See Exhibit B to this Complaint.

18 Plaintiffs assert that most popular screen reader programs are called Jobs Access
19 With Speech or "JAWS" and Apple's VoiceOver Software. Defendants actions
20 discriminate against Plaintiff Club, specifically Club members who have low vision
21 disabilities. Each of the Club members above cannot use the websites controlled by
22 the Defendants. Modifications to Defendants' websites will not fundamentally alter
23 the rental services provided and will also not cause an undue burden to Defendants,
24 because the cost is less than One Thousand Dollars (\$1,000).

25 15. On March 20, 2022, and on a second date, Plaintiff Club attempted to make a
26 request to the Defendants for reasonable accommodation at the property. On May
27

1 16, 2022, the named individual Plaintiff Davis and Plaintiff Club emailed to the
2 Defendants a written request for a reasonable accommodation. In May, 2022,
3 Plaintiff Davis and Plaintiff Club, mailed a written request for a reasonable
4 accommodation. Defendants failed to respond to both Plaintiffs requests for
5 reasonable accommodation as of the date of the filing of this Civil Complaint.
6

7 16. Plaintiffs are not able to access Defendants rental services due to existing
8 overt and obvious communication and physical barriers to access Defendants' rental
9 services both at its online website and at the physical office. Due to the overt and
10 obvious physical barriers as alleged herein below, which are required to be removed,
11 Plaintiffs requested that Defendants accommodate them to provide access to
12 Defendants' rental services.

13 17. The named Plaintiffs allege that an accommodation is also obvious when a
14 whole group of the protected persons requires it. For example, when the public
15 without disabilities are required to get up to a second level, the public would be very
16 disturbed if they were required to request steps to go up to second level. When the
17 accommodation is specific to a particular person with a disability, then that person
18 may be required to make a request, because the accommodation is not obvious.

19 18. Plaintiffs allege that they are not required to make a request for reasonable
20 accommodation and for auxiliary aids when the barriers to communication are overt
21 and obvious. However, in the present case, Plaintiffs did make such requests for
22 accommodation to eliminate overt and obvious barriers to its rental services
23 communications. Plaintiffs allege that providing effective contact information for
24 Defendants' rental services on the internet is an obvious accommodation. The
25 general public does not need to request a contact number from the Defendant
26 apartment owner or operator when they desire to rent a place. Defendants provide the
27 contact number on their website. Therefore, Plaintiffs allege that Defendants are
28

1 required to provide the obvious accommodation of effective communication for
2 people that are deaf or with speech impediment on their website without a request.
3 Defendants must make their rental services accessible without the need for a prior
4 request. Furthermore, Defendants have a duty to remove architectural barriers and
5 communication barriers to their rental services without request.

6 19. Plaintiffs allege that there is disparate treatment on the internet related to the
7 amenities being offered to people without disabilities and people with disabilities.
8 All the below facts and the facts stated elsewhere herein have a disparate impact on
9 the disability community. The named Plaintiffs experienced and have knowledge of
10 the below facts that the Plaintiffs ascertained from Defendants' websites. Defendant
11 operates an apartment property. The property is located at 9710 Zelzah Ave,
12 Northridge, CA 91325. The property was built in 1987 and has 102 stories with 3
13 units. The rent is approximately: \$1,399 - \$3,150. The internet provides a wealth of
14 information regarding the property. The internet advertises that the property has
15 amenities that include: Furnished Units Available, Fitness Center, Sauna, Pool,
16 Gated, Sundeck, High Speed Internet Access, Smoke Free, Tub/Shower, Kitchen,
17 Oven, Range, Carpet, Views, Walk-In Closets, Linen Closet, Balcony, Pet Policies
18 Cats Allowed, Pet Limit 2, Pet interview Not required, Spayed/Neutered Not
19 required, Declawed Not required, Pet deposit \$500, Monthly pet rent \$35, Parking
20 Garage, 2 spaces, Assigned Parking, Private enclosed garage per apartment home,
21 Application Fee \$35, Trash Removal, Sewer. The property advertises on
22 <https://www.theheightsonsuperior.com/>, padmapper.com, rent.com. It is very
23 important to know that on <https://www.theheightsonsuperior.com/>, rent.com there is
24 the equal housing opportunity logo. The plaintiff alleges that there is disparate
25 treatment on the internet related to the amenities being offered to people without
26 disabilities and people with disabilities. For example, the tow signage was not
27

1 installed. The accessible parking space had an access aisle, which was not van
2 accessible. The aisle did not have the “no parking” included in the access aisle. The
3 office had a high threshold. There was no International Symbol of Accessibility
4 signage. The Internet does not state the accessible amenities at all. Also, the
5 statement the “equal housing opportunity statement” is misleading. In fact, the
6 property is not completely accessible. All the above facts and the facts stated herein
7 have a disparate impact on the disability community.

8 20. On Defendants’ websites, they allow the public without deafness and without
9 speech impairments to participate by providing them with a telephone number to
10 call. However, Plaintiff Club members that are deaf and or with speech impairments
11 are denied equal access to participate because the Defendants do not have any
12 effective communication.

13 21. Defendants provide websites for people without disabilities to benefit from the
14 rental services without going to the apartments to learn about the properties.
15 However, for people with disabilities that require the access to the facility, the
16 Defendants do not provide any information on the websites regarding if the office on
17 or off the site is accessible. Moreover, the Defendants provide the telephone number
18 for the public to call to inquire about the rental services without providing any
19 effective alternative communications for Plaintiffs and other people that are deaf or
20 have speech impairments.

21 22. For people without disabilities, the Defendants provide all of the information
22 on their websites. For Plaintiffs with disabilities, Defendants require them to travel to
23 the Property to determine if it is accessible, then require them to request the effective
24 communication, and then thereafter to request a reasonable accommodation to the
25 overt and obvious communication barrier. Therefore, Defendants require Plaintiffs
26 and other people with disabilities to suffer a separate benefit.

1 23. Additionally, the named Plaintiffs are alleging photograph discrimination
2 related to the physical access of each of the apartments within Exhibit B to this
3 complaint. The purpose of Defendants' internet photographs is to entice perspective
4 renters to apply online or to contact the Defendants to rent a place. Defendants'
5 internet photographs only entice people without mobility disabilities. Defendants'
6 internet photographs exclude any photographs of any accessible features that would
7 aid the Plaintiffs. For example, there is no photograph of accessible parking. There
8 are no photographs of the accessible route to the office on or off the site. There are
9 photographs of the accessible route to the manager's office. There are no photographs
10 related to the access to get into and use the rental or manager's office. There are no
11 photographs related to the accessible route of the common area. There are no
12 photographs of the accessible units. In fact, all the photographs lead a person with a
13 mobility disability to believe that the apartments are not accessible, or that they must
14 have someone go to the properties to make sure it is accessible. However, people
15 without disabilities are not required to go to the Property to see if it is accessible.

16 24. Defendants websites and Defendants' rental services are not integrated for
17 people with disabilities as required. Plaintiffs are required to request an
18 accommodation. People without disabilities can access the websites and the rental
19 services without any problem, but Plaintiffs and other people with disabilities are
20 required to request for separate rental services. People with mobility conditions are
21 not integrated when using the websites because they must go to the apartments to
22 determine if they are accessible, but people without disabilities need only access
23 Defendants' websites to determine they can use them. People that are blind and with
24 low vision disabilities must request help to read the website information because the
25 printed information is too small, but people without disabilities can access the
26 websites without asking for help. Plaintiffs and other people with deafness or people
27

1 with speech condition must ask for help calling the number on the websites, because
2 Defendants fail to provide a TTY number to contact, or Defendants fail to provide a
3 texting system. Defendants discriminated against the Plaintiffs.

4 25. Plaintiff Club member went to Defendant's apartment facilities at the Property
5 in March, 2022, and on a second subsequent date, to access the Leasing Center
6 Office. The Named Individual Plaintiff has actual knowledge of Defendants' overt
7 and obvious physical barriers, that relate to this Plaintiff's disabilities, to Defendants'
8 Property on-site Leasing Center Office that this Named Individual Plaintiff intended
9 to visit in March, 2022, and on a second subsequent date, but this Plaintiff was
10 deterred from accessing Defendant's Leasing Center Office located on the Property.
11 Defendants provide rental information, rental applications, and other rental services
12 on-site at the Property. Defendants' agents confirmed to the Plaintiffs that rental
13 information, rental applications, and other rental services were available on-site at
14 the Property. Defendants' Leasing Center Office at the Property is not accessible.
15 The Named Individual Plaintiff has actual knowledge of Defendants' overt and
16 obvious physical barriers, that relate to this Plaintiff's disabilities, to Defendants'
17 Property on-site office that provides rental services that this Named Individual
18 Plaintiff intended to visit but this Plaintiff was deterred from accessing Defendant's
19 rental services at the office located on the Property or off site. With respect to
20 Defendants' rental services located in the office, the named individual Plaintiff
21 determined that overt and obvious architectural barriers and communication barriers
22 exist that relate to his disabilities, that include but are not limited to, the following:
23 Defendants' path of travel from the sidewalk to the Leasing Center Office is not
24 accessible since it has step changes in level along the path. There are numerous step
25 changes in level that must be traversed to access the main entrance leading into the
26 complex. The main entrance door leading into the complex fails to have the required
27
28

smooth and uninterrupted surface at the bottom of the door. The main entrance door leading into the complex fails to have accessible operating hardware. Defendant's callbox is located too high to be accessible. A second gated entrance door leading into the complex also fails to have the required smooth and uninterrupted surface at the bottom of the door. The operating hardware on this second gated entrance door is a round knob. Within the complex, there are numerous step changes in level that must be traversed to access different areas within the complex. There are numerous step changes in level that must be traversed to access the Leasing Center Office entrance door. Defendants do not provide the required directional signage as to the designated path of travel from the sidewalk to Defendant's Leasing Center Office. Defendant's Leasing Center Office entrance door fails to have the required smooth and uninterrupted surface at the bottom of the door. Defendant's Leasing Center Office entrance is not accessible due to a significant step change in level at the Leasing Center Office door threshold that is not beveled or ramped. The Named Individual Plaintiff uses a wheelchair for mobility and these step changes in level and the other stated issues cause the path of travel and the Leasing Center Office entry to be not accessible. Defendants failed to provide any directional signage indicating an alternate accessible path of travel to the Leasing Center Office. Defendants failed to provide the required fully compliant van accessible disabled parking for the Leasing Center Office. Defendants failed to provide a dimensionally compliant van accessible disabled parking space and disabled parking access aisle, the required disabled parking signage, including tow away signage, fine signage, ground markings, and failed to locate said parking on a level surface and nearest the Leasing Center Office. Defendants also failed to provide compliant tow away signage. The Named Individual Plaintiff requires the use of a compliant van accessible disabled parking space to safely exit and re-enter the vehicle.

28

1 Defendants' failure to provide the required compliant disabled parking, disabled
2 parking access aisle, disabled parking disability signage, access aisle, and disability
3 ground markings, such that the Named Individual Plaintiff is not able to safely park
4 at Defendants' establishment since the individual Plaintiff may be precluded from
5 exiting or re-entering the vehicle if the disabled parking and disabled parking
6 signage is not present and others park improperly. Additionally, Defendants failed to
7 provide the required accessible path of travel from the parking area to the Leasing
8 Center Office since the existing path of travel has step changes in level.

9 Additionally, Defendants overt and obvious communication barriers were also
10 present at the Leasing Center Office in March, 2022, and on a second subsequent
11 date. Defendants failed to provide any method of text communication with their
12 Leasing Center Office and failed to publish any information as to how to initiate text
13 communication contact. The Named Individual Plaintiff had actual knowledge of
14 these barriers at Defendants' Property that Plaintiff intended to visit, and the Named
15 Individual Plaintiff was deterred from accessing Defendants' Leasing Center Office
16 at the Property again in May, 2022. See Property photos in Exhibit B.

17 26. Plaintiff Club and the named Individual Plaintiff desire to make sure that
18 Defendants' rental services at Defendants' physical office location and Defendants'
19 websites are fully accessible to Plaintiff Club's members, the named Individual
20 Plaintiff, and other people with disabilities. Plaintiff Club, its Club members, and the
21 named Individual Plaintiff all have actual knowledge of Defendants' discriminatory
22 conditions, and they are currently deterred from attempting further access until the
23 barriers are removed. Plaintiff Club and the named Individual Plaintiff intend to
24 return to Defendants' Property and Defendants websites at the end of this action to
25 obtain rental services, and to verify that the communication and architectural barriers
26 are removed. The named Plaintiffs' intent to return is genuine. In this case, Plaintiff

1 Club has numerous members residing near Defendants Property. Plaintiff Club's
 2 members have actual knowledge of the discriminatory conditions as alleged herein
 3 when the Plaintiff Club investigated the Property and the rental services and
 4 determined that the Club members would not be able to use the rental services due to
 5 the discriminatory conditions. Therefore, Plaintiff Club members were and are
 6 deterred from visiting the properties. Plaintiff Members were not required to
 7 actually visit the properties. See *Civil Rights Education & Enforcement Center v.*
 8 *Hospitality Properties Trust*, 867 F.3d 1093 (9th Cir. 2017). However, a member of
 9 Plaintiff Cub did visit and attempt to access Defendants' rental services at
 10 Defendants' physical office at the Property. Plaintiff Club and the individual
 11 Plaintiff have specific plans to visit at the conclusion of this case to obtain rental
 12 information and to verify the Defendants ceased its discriminatory conduct by
 13 removing communication and physical barriers to access to the rental services.
 14

15 **DISCRIMINATORY PRACTICES IN HOUSING ACCOMMODATIONS –**
 16 **FAIR HOUSING ACT CLAIMS**

17 27. FHA Standing:
 18

19 Based on the facts plead at ¶¶ 8 - 26 above and elsewhere herein this
 20 complaint, Defendants discriminated against Plaintiffs in violation of FHA sections §
 21 3604(f)(1- 3) and 42 § 3604(c), as further detailed below. As a result, the present
 22 named Plaintiffs suffered injury as a result of Defendants discriminatory actions, and
 23 named Plaintiffs now pray for damages, injunctive relief, declaratory relief, and
 24 other relief as hereinafter stated. The Federal Fair Housing Act applies to
 25 Defendants' apartment complex since it has more than 4 residential units. FHA
 26 standing is substantially broader than standing under the ADA due to the critically
 27 important need of adequate availability of housing for the disabled. A potential
 28

1 plaintiff is not even required to have an interest in renting a particular property or
 2 dwelling to have standing. *Smith v. Pacific Properties and Development Corp*, 358
 3 F.3d 1097, 1099 (9th Cir 2004) [Testers have standing to bring Fair Housing Act
 4 claims, *Id* 1099, 1104]. Under the Act, any person harmed by discrimination,
 5 whether or not the target of the discrimination, can sue to recover for his or her own
 6 injury. See *Trafficante v. Metropolitan Life Ins. Co.*, 409 U.S. 205, 212, 93 S.Ct. 364,
 7 34 L.Ed.2d 415 (1972). “This is true, for example, even where no housing has
 8 actually been denied to persons protected under the Act.” *San Pedro Hotel v City of*
 9 *Los Angeles*, 159 F.3d 470, 474-475 (9th Cir 1998). In the present case, the named
 10 Plaintiffs alleged they suffered the injury of discriminatory conduct by Defendants,
 11 and that the named Plaintiffs suffered monetary and other damages as a result. The
 12 named Plaintiffs seek injunctive relief as well as damages, both of which are
 13 available under 42 USC § 3613(c). Assuming *arguendo* in the present case, that
 14 prospective injunctive relief was not available to Plaintiffs due to mootness or
 15 otherwise, which Plaintiffs dispute; the named Plaintiffs are still permitted to recover
 16 damages under their federal FHA claims. *Harris v Itzakhi*, 183 F.3d 1043, 1050 (9th
 17 Cir 1999) [During the appeal in *Harris* case, the plaintiff therein moved Three
 18 Thousand (3000) miles away and her injunctive claims became moot. However,
 19 Plaintiff’s claim for damages survived and was not affected]. In the present case,
 20 while Plaintiffs can satisfy the injunctive relief prudential standing requirements, the
 21 above Ninth Circuit *Harris* court authority makes it clear that those prudential
 22 standing requirements for injunctive relief are not applicable to Plaintiffs FHA
 23 damage claims. Hence, in the present case, Plaintiffs damage claims survive even if
 24 prospective injunctive relief is not available. The present Plaintiff Club has
 25 organization standing separately on its own under the FHA. Additionally, under the
 26 FHA, Plaintiff Club has associational standing to assert its Club member claims
 27 since it only seeks injunctive and declaratory relief as to its Club members. Plaintiff
 28

1 Club and the named Individual Plaintiff have standing with respect to the following
2 FHA claims.
3

4 CLAIM I: Discrimination In Violation of 42 § 3604(f)(1) - Failure To Have A
5 Policy For Receiving Prospective Tenant Accommodation Requests, Failure To
6 Train Staff, And Failure To Make The Policy Known To The Plaintiffs

7 28. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere herein this
8 complaint, the named Plaintiffs suffered discrimination by Defendants in violation of
9 this FHA section. This FHA statute states it is unlawful to discriminate in the sale or
10 rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter
11 because of a handicap of (A) that buyer or renter; (B) a person residing in or
12 intending to reside in that dwelling after it is so sold, rented, or made available; or...
13 §3604(f)(1) [emphasis added]. See *Texas Dept. of Housing and Community Affairs*
14 v *Inclusive Communities Project*, 135 S.Ct. 2507, 2519 (2015) [FHA statutory
15 scheme permits disparate impact claims, and those type of claims do not require
16 intent]. due to Defendants' communication and architectural barriers, Defendants
17 discriminated against Plaintiffs by failing to have a policy, practice, or method for
18 Plaintiffs to make a reasonable accommodation request for equal access to their
19 rental services on their website or at their on-site office at the Property. Defendants
20 have an affirmative duty to have a policy, process to receive such accommodation
21 requests and to respond to said requests. See *Giebeler v. M & B Associates*, 343 F.3d
22 1143 (9th Cir. 2003). As a result, Defendant caused Plaintiffs to suffer disparate
23 impact discrimination.

24 ///

25 ///

26 ///

27

28

1 CLAIM II: Failure to Engage in Interactive Process In Violation Of The Fair
2 Housing Act And California Fair Employment And Housing Act

3 29. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere herein this
4 complaint, Plaintiffs suffered discrimination by Defendants in violation of FHA
5 section § 3604(f)(1) and § 3604(f)(2). Plaintiffs contend that Defendant failed to
6 engage in a good-faith interactive process to determine and to implement effective
7 reasonable accommodations so that Plaintiffs could gain equal access Defendants'
8 rental services, to apply for a lease, or to allow Plaintiffs to access Defendants'
9 physical office on or off the site and apartments.

10 CLAIM III: Discrimination In Violation of 42 § 3604(f)(2)

11 30. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere herein this
12 complaint, the named Plaintiffs suffered discrimination by Defendants in violation of
13 this FHA section § 3604(f)(2). This FHA section states “it shall be unlawful to
14 discriminate against any person in the terms, conditions, or privileges of sale or
15 rental of a dwelling, or in the provision of services or facilities in connection with
16 such dwelling”. Plaintiffs more specific factual basis for this claim is set forth
17 above at ¶¶23-26 above. As previously stated, the named Individual Plaintiff was a
18 prospective renter and Plaintiff Club was also seeking rental housing on behalf of the
19 named Individual Plaintiff ¶¶8 – 26 above. In the instant case, Defendant’s office
20 located on the Property is a “facility” in connection with the rental of a dwelling and
21 the on-site rental services provided within the office fall within the FHA statute. In
22 the instant case, the named Plaintiffs both assert that Defendant’s failure to remove
23 communication and architectural barriers to permit access to Defendant’s on-site
24 rental services contained within the office is a separate, independent, actionable
25 violation of this FHA section § 3604(f)(2), even without reference to the ADA as a
26 predicate. Plaintiffs have alleged that Defendants’ Property has overt and obvious
27 physical barriers to access its rental services provided in its on-site office. See ¶¶25 -
28

1 26. The 9th Circuit *Smith* court stated that the mere observation of overt architectural
 2 barriers is actionable. *Smith* at 1104 [“To read an additional standing requirement
 3 into the statute beyond mere observation, however, ignores that many overtly
 4 discriminatory conditions, for example, lack of a ramped entryway, prohibit a
 5 disabled individual from forming the requisite intent or actual interest in renting or
 6 buying *for the very reason* that architectural barriers prevent them from viewing the
 7 whole property in the first instance” (emphasis in original)]. The *Smith* court found
 8 Defendants liable under this FHA subsection even though that case did not involve
 9 ADA Title III claims. However, Plaintiffs did not just allege that Plaintiff Club
 10 observed Defendant’s overt architectural barriers, but Plaintiffs alleged that a
 11 Plaintiff Club member experienced the barriers, that the named Individual Plaintiff
 12 had actual knowledge of Defendants’ communication and architectural barriers and
 13 Plaintiff Davis was deterred from obtaining equal access to Defendant’s office
 14 facility and its rental services located therein. Defendants also discriminated against
 15 Plaintiffs by failing to modify its practices and policies to provide access via other
 16 methods of access to its rental services contained within the office on or off the site.
 17 Defendant’s failure to remove the architectural and communication barriers to access
 18 its facilities and the rental services located therein, or to provide an accommodation
 19 to provide methods of alternate access to the office facility, providing rental services
 20 constitutes the prohibited discrimination, separately and independently.
 21 Additionally, Defendant’s conduct is also prohibited under ADA Title III and
 22 constitutes a second, separate, independent source of discrimination against Plaintiffs
 23 in violation of FHA § 3604(f)(2). Since Defendants discriminatory conduct involves
 24 Defendants’ rental facilities and its rental services located therein, Plaintiffs assert
 25 any discriminatory conduct found in violation of ADA Title III also constitutes
 26 prohibited “discrimination” under FHA § 3604(f)(2).

27 ///
 28

1 CLAIM IV: Discrimination In Violation of 42 § 3604(f)(3)(A and B only)

2 31. Plaintiffs do not make any claim against Defendants for a failure to “design
3 and construct” pursuant to § 3604(f)(3)(C). Based on the facts plead at ¶¶ 8 - 26
4 above and elsewhere herein this complaint, Plaintiffs suffered discrimination by
5 Defendants in violation of FHA sections § 3604(f)(3)(A, B) only. The FHA requires
6 that “....[f]or the purposes of this subsection, discrimination includes-- (B) a refusal
7 to make reasonable accommodations in rules, policies, practices, or services, when
8 such accommodations may be necessary to afford such person equal opportunity to
9 use and enjoy a dwelling...” 42 § 3604(f)(3)(B). See also *Giebeler v. M & B*
10 *Associates*, 343 F.3d 1143 (9th Cir 2003). Defendants improperly refused Plaintiffs’
11 repeated written and other requests for an accommodation to have equal access to its
12 rental services.

13 CLAIM V: Discrimination In Violation of 42 § 3604(c) As To NSA

14 32. Based on information, belief, and the facts plead at ¶¶ 8 – 26 above and
15 elsewhere herein, Plaintiffs herein alleges that Defendants caused Plaintiffs to suffer
16 the injury of discrimination since Defendants violated 42 U.S.C. §§ 3604 (c) with
17 respect to its notices, statements, and advertisements (“NSA”). Plaintiffs allege that
18 Defendants discriminated against them when Defendants made, printed, or
19 published, or caused to be made printed, or published notices, statements, or
20 advertisements (“NSA”) that suggest to an ordinary reader a preference to attract
21 tenants without disabilities. Defendants' Internet advertising regarding its rental
22 services has an unlawful disparate impact on Plaintiffs.

24 SECOND CAUSE OF ACTION : Violation of California Fair Housing Act

25 33. Failure to Provide Obvious Reasonable Accommodation and Modification:
26 Based on information, belief and the facts stated above at ¶¶ 8 – 26 above and

1 elsewhere in this complaint, Plaintiffs allege that Defendants refused to make
 2 reasonable accommodations in rules, policies, practices, or services in violation of
 3 CA Government Code sections 12927 and 12955.2, when these accommodations
 4 may be necessary to afford a disabled person equal opportunity to use and enjoy
 5 Defendants' rental services. As stated in detail above, Defendants refused to make
 6 reasonable accommodations with the instant Plaintiffs and discriminated against each
 7 of them on the basis of disability.

9 THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under
 10 The Americans With Disabilities Act Of 1990

11 34. ADA Standing:

12 ADA Title III does cover public and common use areas at housing
 13 developments when these public areas are, by their nature, open to the general
 14 public. An office providing rental services is open to the general public. (See U.S.
 15 Department of Justice - ADA Title III Technical Assistance Section III-1.2000,
 16 Illustration 3, office on or off the site covered). The parking and paths of travel to
 17 the office on or off the site are also covered. *See Section III-1.2000, ADA Title III*
 18 *Technical Assistance Manual,* [*http://www.ada.gov/taman3.html*](http://www.ada.gov/taman3.html) (“ILLUSTRATION
 19 3: A private residential apartment complex contains a office on or off the site. The
 20 office on or off the site is a place of public accommodation”). See *Kalani v Castle*
 21 *Village, LLC*, 14 F.Supp.3d 1359, 1371 (E.D.Cal, 2014)[citing *Johnson v. Laura*
 22 *Dawn Apartments, LLC*, 2012 WL 33040 at *1 n. 1 (E.D.Cal.2012) (Hollows, M.J.)
 23 (“[t]he leasing office of an apartment is a place of public accommodation.] . In the
 24 present case, the named Plaintiffs have sufficiently alleged that Defendants have an
 25 office at the Property that provides rental services. Following prior sister Circuit
 26 Courts of Appeals decisions, our Ninth Circuit Court very recently held that an ADA
 27 Plaintiff can be only a “tester” and have standing. See *Civil Rights Education &*

¹ *Enforcement Center v. Hospitality Properties Trust*, 867 F.3d 1093 (9th Cir. 2017)
² [the Ninth Circuit CREEC court held (1) ADA “tester” standing is valid and a
³ Plaintiff’s motivation for visit is “irrelevant”, and (2) an ADA “deterrent effect
⁴ doctrine” claim does not require a Plaintiff to have a personal encounter with the
⁵ barrier to equal access, only to have knowledge of the barrier] citing *Havens Realty*
⁶ Corp. v. *Coleman*, 455 U.S. 363, 372–74, 102 S.Ct. 1114 (1982); *Smith v. Pacific*
⁷ *Properties and Development Corp*, 358 F.3d 1097, 1102-1104 (9th Cir 2004);
⁸ *Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 939 (9th Cir 2011, en banc);
⁹ *Houston v. Marod Supermarkets, Inc.*, 733 F.3d 1323, 1335–37 (11th Cir. 2013);
¹⁰ *Colo. Cross Disability Coal. v. Abercrombie & Fitch Co.*, 765 F.3d 1205, 1210–11
¹¹ (10th Cir. 2014). In the present case, the named Plaintiffs each have ADA standing.
¹² Plaintiffs have alleged that Defendants discriminated against Plaintiffs in violation of
¹³ ADA Title III statutes and regulations as detailed further in the ADA claims stated
¹⁴ below. As a result, the named Plaintiffs have each suffered injury and each seek
¹⁵ only injunctive and declaratory relief pursuant to their ADA Claims.

¹⁶ CLAIM I: **Auxiliary Aids – Failure To Effectively Communicate**

¹⁷ 35. 42 United States Code 12182(b)(2)(iii) states, "a failure to take such steps as
¹⁸ may be necessary to ensure that no individual with a disability is excluded, denied
¹⁹ services, segregated or otherwise treated differently than other individuals because of
²⁰ the absence of auxiliary aids and services, unless the entity can demonstrate that
²¹ taking such steps would fundamentally alter the nature of the good, service, facility,
²² privilege, advantage, or accommodation being offered or would result in an undue
²³ burden;..." Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this
²⁴ complaint, Plaintiffs are informed, believe, and thereon allege that Defendants
²⁵ violated said provision. Plaintiffs set forth the factual basis for this claim most
²⁶ specifically at ¶¶ 13 -14, 16-24 above. The ADA “applies to the services of a place

1 of public accommodation, not services *in* a place of public accommodation. To limit
 2 the ADA to discrimination in the provision of services occurring on the premises of a
 3 public accommodation would contradict the plain language of the statute.” Nat'l
 4 Fed'n of the Blind v. Target Corp., 452 F. Supp. 2d 946, 953 (N.D. Cal. 2006)
 5 (emphasis added) (citing *Weyer v. Twentieth Century Fox Film Corp.*, 198 F.3d
 6 1104, 1115 (9th Cir. 2000) [holding that “whatever goods or services the place
 7 provides, it cannot discriminate on the basis of disability in providing enjoyment of
 8 those goods and services”]). An ADA plaintiff may challenge a business’ online
 9 offerings as well. So long as there is a “nexus”—that is, “some connection between
 10 the good or service complained of and an actual physical place”—a plaintiff may
 11 challenge the digital offerings of an otherwise physical business. *See Gorecki v.*
 12 *Hobby Lobby Stores, Inc.*, 2017 WL 2957736, at *4 (C.D. Cal. June 15, 2017) [Case:
 13 CV 17–1131–JFW (SKx)]. The ADA requires the Defendants to provide effective
 14 communication to the instant Plaintiffs and to people with disabilities. In the
 15 present case, Plaintiffs experienced and have knowledge that Defendants failed to
 16 have a required procedure to provide effective communication. Plaintiffs allege that
 17 Defendants failed to train their staff on the way to use the auxiliary aids. Defendants
 18 did not provide any auxiliary aid and the Defendants did not provide any reasonable
 19 accommodation to the overt and obvious communication barriers, and failed to
 20 respond to Plaintiffs’ requests for accommodation. Plaintiffs are not demanding that
 21 Defendants provide a specific reasonable accommodation or a specific auxiliary aid.
 22 ADA law allows the Defendants to decide what auxiliary aid and reasonable
 23 accommodation will be provided. In this case, however, Defendants failed to
 24 provide any reasonable accommodation for the overt and obvious communication
 25 barriers to equal access to their rental services, failed to provide any auxiliary aid,
 26 and failed to provide any effective communication. Plaintiffs allege that Defendants’
 27
 28

1 websites provide a contact number for the general public, but Defendants failed to
 2 provide Plaintiffs with the required effective communication using texting or other
 3 alternate means of communication for Plaintiffs and other people with a deaf
 4 condition or a speech condition. Defendants' conduct discriminates against Plaintiff
 5 Club's members that have hearing disabilities and Club's members with speech
 6 disabilities. Defendants are required to provide, on Defendants' websites, to provide
 7 a method to effectively communicate with Plaintiff Club members that have hearing
 8 and speech disabilities, and other people that are deaf or have speech impairments.
 9

10 **CLAIM II: Denial of Participation**
 11

12 36. 42 United States Code 12182(b)(1)(A)(i) states, "It shall be discriminatory to
 13 subject an individual or class of individuals on the basis of a disability or disabilities
 14 of such individual or class, directly, or through contractual, licensing, or other
 15 arrangements, to a denial of the opportunity of the individual or class to participate in
 16 or benefit from the goods, services, facilities, privileges, advantages, or
 17 accommodations of an entity." Based on the facts plead at ¶¶ 8 - 26 above and
 18 elsewhere in this complaint, Plaintiffs are informed, believe, and thereon allege that
 19 Defendants violated said provision. Plaintiffs set forth the factual basis for this claim
 20 most specifically at ¶¶ 20-24 above. Defendants discriminated against Plaintiffs in
 21 violation of 42 United States Code 12182(b)(1)(A)(i) and 42 U.S.C. § 12188.
 22

23 **CLAIM III: Participation in Unequal Benefit**
 24

25 37. Defendants provide unequal benefit for people with disabilities in violation of
 26 42 United States Code 12182(b)(1)(A)(ii) and 42 U.S.C. § 12188. Based on the facts
 27 plead at ¶¶ 8 - 26 above and elsewhere in this complaint, Plaintiffs are informed,
 28 believe, and thereon allege that Defendants discriminated against Plaintiffs in
 violation of said provision. Plaintiffs set forth the factual basis for this claim most

1 specifically at ¶¶ 20-24 above.
2

3 **CLAIM IV: Separate Benefit**

4 38. Defendants' photographs discriminate against Plaintiffs in violation of 42
5 United States Code 12182(b)(2)(A)(iii) and 42 U.S.C. § 12188. Based on the facts
6 plead at ¶¶ 8 - 26 above and elsewhere in this complaint, Plaintiffs are informed,
7 believe, and thereon allege that Defendants discriminated against Plaintiffs in
8 violation of said provision. Plaintiffs set forth the factual basis for this claim most
9 specifically at ¶¶ 20-24 above.

10 **CLAIM V: Integrated Settings**

11 39. Defendants' rental services are not integrated for Plaintiffs and people with
12 disabilities in violation of 42 United States Code 12182(b)(1)(B) and 42 U.S.C. §
13 12188. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this complaint,
14 Plaintiffs are informed, believe, and thereon allege that Defendants discriminated
15 against Plaintiffs in violation of said provision. Plaintiffs set forth the factual basis
16 for this claim most specifically at ¶¶ 20-24 above.

17 **CLAIM VI: Failure To Modify Practices, Policies And Procedures**

18 40. Defendants failed and refused to provide a reasonable alternative by
19 modifying its practices, policies, and procedures in that they failed to have a scheme,
20 plan, or design to accommodate Plaintiff Club, its Club members, the individual
21 named Plaintiff, and/or others similarly situated in utilizing Defendants' rental
22 services, at its websites and its office at the Property, in violation of 42 United States
23 Code 12182(b)(2)(A)(ii) and 42 U.S.C. § 12188. Based on the facts plead at ¶¶ 8 - 26
24 above and elsewhere in this complaint, Plaintiffs are informed, believe, and thereon
25 allege that Defendants discriminated against Plaintiffs in violation of said provision.
26 Plaintiffs set forth the factual basis for this claim most specifically at ¶¶ 18-26 above.

27 ///

1 **CLAIM VII: Failure To Remove Architectural And Communication Barriers**

2 41. Plaintiffs allege that Defendants failed to remove architectural barrier and
3 communication barriers as required in violation of 42 United States Code
4 12182(b)(2)(A)(iv) and 42 U.S.C. § 12182. Based on the facts plead at ¶¶ 8 - 26
5 above and elsewhere in this complaint, Plaintiffs are informed, believe, and thereon
6 allege that Defendants discriminated against the named Individual Plaintiff in
7 violation of said provision. Plaintiffs set forth the factual basis for this claim most
8 specifically at ¶¶ 8,9,20-24,25,26 above. The named Individual Plaintiff personally
9 reviewed all the information and photographs of Defendants' property. As a result,
10 the named Individual Plaintiff has actual knowledge of the physical and
11 communication barriers that exist at Defendants' Property. The named Individual
12 Plaintiff determined that the physical barriers that exist at Defendants' property,
13 directly relate to his disabilities, and make it impossible or extremely difficult for
14 him to physically access Defendants' rental services at the Property. The named
15 Individual Plaintiff was deterred by his actual knowledge of the physical and
16 communication barriers that exist at Defendants' Property which include but are not
17 limited to the barriers to facilities for disabled parking, exterior path of travel to the
18 office, the office entrance, and office interior, since said Defendants' facilities were
19 not accessible because they failed to comply with the Federal ADA Accessibility
20 Guidelines ("ADAAG") and California's Title 24 Building Code Requirements. See
21 ¶¶ 25 for details. The named Individual Plaintiff had actual knowledge of these
22 barriers and determined that it would be futile gesture for him to go to the Property
23 on the date that he had originally intended. The named Individual Plaintiff is
24 currently deterred from returning due to his knowledge of the barriers. At the end of
25 this action, the named Individual Plaintiff intends to return to Defendants' physical
26 office on or off the site location to obtain rental information and verify that the
27 communication and physical barriers to Defendants' rental services are removed.

1 Defendants failure to remove the barriers to equal access constitutes discrimination
2 against the named Individual Plaintiff.

3 **CLAIM VIII: Failure To Make Alterations Readily Accessible And Usable**

4 42. Defendants are required to make alterations to their facilities in such a manner
5 that, to the maximum extent feasible, the altered portions of the facility are readily
6 accessible to and usable by individuals with disabilities, including individuals who
7 use wheelchairs pursuant to 42 U.S.C. §12183(a)(2). Based on the facts plead at ¶¶ 8
8 - 26 above and elsewhere in this complaint, the named Plaintiffs are informed,
9 believe, and thereon allege that Defendants violated this provision. Plaintiffs allege
10 that Defendants altered their facility in a manner that affects or could affect the
11 usability of the facility or a part of the facility after January 26, 1992. In performing
12 the alteration, Plaintiffs allege that Defendants failed to make the alteration in such a
13 manner that, to the maximum extent feasible, the altered portions of the facility are
14 readily accessible to and usable by individuals with disabilities, including individuals
15 who use wheelchairs, in violation of 42 U.S.C. §12183(a)(2).

16 **CLAIM IX: Administrative Methods**

17 43. Plaintiffs are informed, believe, and thereon allege that Defendants contract
18 with website providers without making sure that the websites will be accessible to
19 people with disabilities in violation of 42 United States Code 12182(b)(1)(B) and 42
20 U.S.C. § 12188. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this
21 complaint, Plaintiffs are informed, believe, and thereon allege that Defendants
22 discriminated against the named Individual Plaintiff in violation of said provision.
23 Plaintiffs set forth the factual basis for this claim most specifically at ¶¶18-26 above.

24 **CLAIM X: Screen Out**

25 44. Plaintiffs are informed, believe, and thereon allege that Defendants screened
26 out Plaintiffs and other people with disabilities in violation of 42 United States Code
27

1 12182(b)(2)(A)(i) and 42 U.S.C. § 12188. Based on the facts plead at ¶¶ 8 - 26
 2 above and elsewhere in this complaint, Plaintiffs are informed, believe, and thereon
 3 allege that Defendants discriminated against the named Plaintiffs in violation of said
 4 provision. Plaintiffs set forth the factual basis for this claim most specifically at ¶¶ 8
 5 - 26 above. Defendants screened out the named Plaintiffs from its rental services and
 6 processes, because Defendants failed to remove architectural and communication
 7 barriers to its website and physical office, failed to provide required effective
 8 alternate communication methods, and failed to provide required auxiliary aids.
 9

CLAIM XI: Denial Of Full And Equal Access

10 45. Defendants are required to provide full and equal access to Defendants' rental
 11 services, goods, facilities, privileges, advantages, or accommodations pursuant to 42
 12 United States Code 12182(b) and 42 U.S.C. § 12188. Based on the facts plead at ¶¶
 13 8 - 26 above and elsewhere in this complaint, Plaintiffs are informed, believe, and
 14 thereon allege that Defendants discriminated against the named Plaintiffs in violation
 15 of said provision. Plaintiffs set forth the factual basis for this claim most specifically
 16 at ¶¶ 8 - 26 above.
 17

CLAIM XII: Failure To Investigate And Maintain Accessible Features

18 46. Defendants made repairs and administrative changes which violated ADA and
 19 its regulations. See ADA Title III Regulations Sec.36.211 Maintenance of accessible
 20 features. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this complaint,
 21 Defendants failed to provide and then maintain any accessible features in its parking,
 22 path of travel, office on or off the site services and website rental services. Plaintiffs
 23 are informed, believe, and thereon allege that Defendants discriminated against the
 24 named Plaintiffs in violation of this provision.
 25
 26

27 ///
 28

1 CLAIM XIII: **Association**

2
3 47. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this complaint,
Plaintiffs are informed, believe, and thereon allege that Defendants discriminated
5 against the named Plaintiffs in violation of 42 U.S.C. § 12182(b)(1)(E)

6 **DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS**

7 FOURTH CAUSE OF ACTION: ONLY THE INDIVIDUALL NAMED
8 PLAINTIFF AGAINST ALL DEFENDANTS - **CLAIMS UNDER CALIFORNIA**
9 **ACCESSIBILITY LAWS**

10 CLAIM I: **Denial Of Full And Equal Access**

11 48. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this complaint, the
12 named Individual Plaintiff was denied full and equal access to Defendants' goods.
13 services, facilities, privileges, advantages, or accommodations within a public
14 accommodation owned, leased, and/or operated by Defendants as required by Civil
15 Code Sections 54, 54.1, and specifically 54.1(d). The factual basis for this claim is at
16 18-28 above.

17 CLAIM II: **Failure To Modify Practices, Policies And Procedures**

18 49. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this complaint,
19 the named Individual Plaintiff was denied full and equal access to Defendants' goods.
20 Defendants failed and refused to provide a reasonable alternative by modifying its
21 practices, policies, and procedures in that they failed to have a scheme, plan, or
22 design to assist Plaintiff Members and/or others similarly situated in entering and
23 utilizing Defendants' services as required by Civil Code § 54.1. The factual basis for
24 this claim is at 18-28 above.

25 CLAIM III: **Violation Of The Unruh Act**

26 50. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this complaint,
27 the individual, the named Individual Plaintiff was denied full and equal access to

1 Defendants' goods. Defendants violated the CA Civil Code § 51 by specifically
 2 failing to comply with Civil Code §51(f). Defendants' facility violated state
 3 disability laws, the ANSI Standards, A117, and California's Title 24 Accessible
 4 Building Code by failing to provide equal access to Defendants' facilities.
 5 Defendants did and continue to discriminate against Plaintiff Members in violation
 6 of Civil Code §§ 51(f), and 52. The factual basis for this claim is at 18-28 above.

7 **Treble Damages Pursuant To California Accessibility Laws**

8 51. Based on the facts plead at ¶¶ 8 - 26 above and elsewhere in this complaint,
 9 only the named Individual Plaintiff prays for an award of treble damages against
 10 Defendants, and each of them, pursuant to California Civil Code sections 52(a) and
 11 54.3(a). Defendants, each of them respectively, at times prior to and including the
 12 day the named Individual Plaintiff attempted patronized Defendants' facilities and
 13 rental services, and continuing to the present time, knew that persons with physical
 14 disabilities were denied their rights of equal access. Despite such knowledge,
 15 Defendants, and each of them, failed and refused to take steps to comply with the
 16 applicable access statutes; and despite knowledge of the resulting problems and
 17 denial of civil rights thereby suffered by the named Individual Plaintiff. Defendants,
 18 and each of them, have failed and refused to take action to grant full and equal access
 19 to the individual Plaintiff in the respects complained of hereinabove. Defendants,
 20 and each of them, have carried out a course of conduct of refusing to respond to, or
 21 correct complaints about, denial of disabled access and have refused to comply with
 22 their legal obligations to make Defendants' public accommodation facilities and
 23 rental services accessible pursuant to the ADAAG and Title 24 of the California
 24 Code of Regulations (also known as the California Building Code). Such actions
 25 and continuing course of conduct by Defendants in conscious disregard of the rights
 26 and/or safety of the named Individual Plaintiff justify an award of treble damages
 27 pursuant to sections 52(a) and 54.3(a) of the California Civil Code.

DEMAND FOR JUDGMENT FOR RELIEF:

A. All named Plaintiffs seeks injunctive relief pursuant to 42 U.S.C. 3613(c) and 42 U.S.C. § 12188(a). Only the named Individual Plaintiff seeks injunctive relief pursuant to CA Civil Code §52. Pursuant to 42 U.S.C. 3613(c), all Plaintiffs request this court to enjoin Defendants to cease their discriminatory practices in housing rental services, rental housing management services, and for Defendants to implement written policies and methods to respond to reasonable accommodation and reasonable modification requests. Pursuant to 42 U.S.C. § 12188(a), Plaintiffs request this Court enjoin Defendants to remove all barriers to equal access to the disabled Plaintiffs in, at, or on their facilities, including but not limited to architectural and communicative barriers in the provision of Defendants' rental services. Plaintiffs do not seek injunctive relief pursuant to Cal. Civil Code §55 and Plaintiffs do not seek attorneys' fees pursuant to Cal. Civil Code §55. Plaintiffs do not seek any relief at all pursuant to Cal. Civil Code §55.

B. All named Plaintiffs seek actual damages pursuant to 42 U.S.C. 3613(c). However, Plaintiff Club only seeks damages for itself. Plaintiff Club does not seek damages on behalf of its members;

C. Only the named Individual Plaintiff seeks recovery of actual damages pursuant to Cal. Civil Code §§ 52 or 54.3;

D. Only the named Individual Plaintiff seeks \$4,000 in minimum statutory damages pursuant to Cal. Civil Code § 52 for each and every offense of Civil Code § 51, pursuant to Munson v. Del Taco, (June 2009) *46 Cal. 4th* 661;

E. In the alternative to the damages pursuant to Cal. Civil Code § 52 in Paragraph C above, only the named individual Plaintiff seeks \$1,000 in minimum statutory damages pursuant to Cal. Civil Code § 54.3 for each and every offense of Civil Code § 54.1;

F. All named Plaintiffs seek attorneys' fees pursuant to 42 U.S.C. 3613(c)(2), 42

1 U.S.C. § 12205, and Cal. Civil Code §§ 52, 54.3;

2 G. Only the named individual Plaintiff seeks treble damages pursuant to Cal.
3 Civil Code §§ 52(a) or 54.3(a);

4 H. The named Plaintiffs are seeking perspective injunctive relief to require the
5 Defendants to provide obvious reasonable accommodations, to provide the required
6 auxiliary aids and to modify Defendants' procedures, practices, and policies of the
7 Defendants in the provision of Defendants' rental services. Without perspective
8 relief the Plaintiffs will suffer future harm.

9 I. All named Plaintiffs seek a Jury Trial and;

10 J. For such other further relief as the court deems proper.

11 Respectfully submitted:

13 LIGHTNING LAW, APC

14 Dated: May 25, 2022

15 By: /s/David C. Wakefield
16 DAVID C. WAKEFIELD, ESQ.
17 Attorney for Plaintiffs